

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**STATESBORO DIVISION**

OTIS ALEXANDER, III, )  
                          )  
                          )  
Movant,                )  
                          )  
                          )  
v.                      )  
                          )  
                          )  
UNITED STATES OF AMERICA, )  
                          )  
                          )  
Respondent.            )

Case No. CV615-090  
                          CR613-015

**REPORT AND RECOMMENDATION**

After pleading guilty to bank robbery and receiving a 92-month sentence on June 5, 2014 (doc. 28),<sup>1</sup> Otis Alexander moves for 28 U.S.C. § 2255 relief. Doc. 38. On preliminary review under Rule 4 of the Rules Governing Section 2255 Proceedings, his motion must be denied as untimely.

Alexander had one year from the date his conviction became final to file a § 2255 motion. 28 U.S.C. § 2255(f). Pursuant to Federal Rule of Appellate Procedure 4(b)(1)(A)(i), he had 14 days from the entry of the judgment against him (June 5, 2014) to file a notice of appeal. Since he filed no appeal, § 2255(1)'s one-year clock began to tick 14 days later, on

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<sup>1</sup> All citations are to the criminal docket unless otherwise noted; all page cites are to the Court's docketing software's pagination.

June 19, 2014. He did not file this motion until July 30, 2015 (doc. 38 at 13), which is 41 days too late. Hence, his motion is untimely and must be **DENIED**.

Moreover, pursuant to Rule 11 of the Rules Governing § 2255 Proceedings,<sup>2</sup> and applying the Certificate of Appealability (“COA”) standards set forth in *Brown v. United States*, 2009 WL 307872 at \* 1–2 (S.D. Ga. Feb. 9, 2009), the Court discerns no COA-worthy issues at this stage of the litigation, so no COA should issue. 28 U.S.C. § 2253(c)(1). And, as there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Thus, in forma pauperis status on appeal should likewise be **DENIED**. 28 U.S.C. § 1915(a)(3).

**SO REPORTED AND RECOMMENDED**, this 26<sup>th</sup> day of October, 2015.

  
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UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA

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<sup>2</sup> Under Rule 11(a), “[t]he district court must issue or deny a [COA] when it enters a final order adverse to the applicant.”